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From:	Presidency
To:	Delegations
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Subject:	Proposal for a COUNCIL DECISION amending Decision (EU) 2023/746 as regards the extension of its scope and period of application and the position to be taken on behalf of the Union in the International Civil Aviation Organization - Compromise prepared by the Presidency

In view of the Working Party on Aviation on 7 November 2025, delegations will find, in Annex, a compromise prepared by the Presidency.

Changes compared to the Commission proposal are highlighted in ~~striketrough~~ and **bold underlined**.

Proposal for a

COUNCIL DECISION

amending Decision (EU) 2023/746 as regards the extension of its scope and period of application and the position to be taken on behalf of the Union in the International Civil Aviation Organization

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Convention on International Civil Aviation, which was signed in Chicago on 7 December 1944, (‘the Chicago Convention’) **and** which regulates international air transport, entered into force on 4 April 1947. It established the International Civil Aviation Organization (‘ICAO’).
- (2) The Member States are Contracting Parties to the Chicago Convention and ICAO Contracting States ~~to the Chicago Convention and members of the ICAO~~, while the Union has observer status in certain ICAO bodies. Six Member States are currently represented in the ICAO Council.
- ~~(3) Pursuant to Article 37 of the Chicago Convention, ICAO is to adopt and amend international standards and recommended practices and procedures dealing for instance with communication systems and air navigation aids, rules of the air and air traffic control practices and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.~~
- (4) Pursuant to Article 38 of the Chicago Convention, any ICAO Contracting State which finds it impracticable to comply in all respects with any **international** standard or to bring its own regulations or practices into full accord with any **international** standard after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an **international** standard, is to give immediate notification to ICAO of the differences between its own regulations or practices and those established by the **international** standard. **In the case of amendments to international standards**, any State which does not make the appropriate amendments to its own regulations or practices is to give notice to the ICAO Council within sixty days of the adoption of the amendment to the **international** standard or indicate the action which it proposes to take.

- (5) Pursuant to Article 54(1) of the Chicago Convention, the Council of the ICAO ('ICAO Council') is to adopt international Standards and Recommended Practices ('SARPs'), and designate them as Annexes to the Chicago Convention.
- (6) Pursuant to Article 90 of the Chicago Convention, any ICAO Annex or any amendment to an ICAO Annex becomes effective within three months after its submission to the ICAO Contracting States, or at the end of such longer period of time as the ICAO Council prescribes, unless in the meantime a majority of ICAO Contracting States register their disapproval. Once they have been adopted by the ICAO Council and have become effective, international standards are binding on all ICAO Contracting States, including all Member States of the Union, in accordance with and within the limits set out in the Chicago Convention, in particular in Articles 37 and 38 thereof.**
- (7) The internal rules of the ICAO, in particular those which cause the latest versions of documents for decisions regarding new SARPs or amendments to SARPs to be available to the ICAO Council only late, the deadlines set by the ICAO for ICAO Contracting States to notify differences with respect to international standards, as well as the sheer number of differences in the areas of civil aviation safety, air navigation and air traffic management to be notified each year, make it difficult to establish the position to be taken on the Union's behalf in a Council Decision based on Article 218(9) Treaty on the Functioning of the European Union in a timely manner for new SARPs or amendments to SARPs to be adopted, or for each difference to be notified.**
- ~~(6) The acts which ICAO is called upon to adopt constitute acts having legal effects.~~
- ~~(7) It is therefore necessary to establish the criteria and procedures for the positions to be taken on the Union's behalf in the ICAO Council of Council Decision until 31 December 2028.~~
- (8) It follows from the application of The Rules of Procedure for ICAO Council (Doc 7559) that documents to be adopted by the ICAO Council are to be made available shortly before each of its sessions. It is only at the point when all submissions are made available by the ICAO Council, that the Commission can thoroughly analyse the documents with a view to preparing the Union position, in the area of Union exclusive competence, for discussion and approval by the Council before an ICAO Council session. This leads to a situation where the timely preparation and adoption of a Council Decision required under Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) may be difficult ~~put at risk~~.
- (8a) It is therefore appropriate to establish the criteria and procedure to be followed for establishing the position to be taken on the Union's behalf regarding the adoption of SARPs or amendments to SARPs, insofar as those SARPs are capable of decisively influencing the content of Union law in the area of civil aviation, as well as regarding decisions to disapprove or not to disapprove SARPs pursuant to Article 90 of the Chicago Convention and regarding the notification of differences with respect to international standards pursuant to Article 38 of the Chicago Convention.**
- (8b) Given the specificity of civil aviation safety, air navigation and air traffic management compared to other areas dealt with by the ICAO, in particular the high number of SARPs adopted in those areas by the ICAO Council every year and the number of differences to be notified every year, this Decision should relate solely to the civil aviation safety, air navigation and air traffic management in order to streamline processes to swiftly establish the position to be taken on the Union's behalf for the adoption of new**

SARPs and amendments to SARPs, the decisions to disapprove or not to disapprove SARPs or amendments to SARPs adopted by the ICAO Council and deal with the numerous notifications in an efficient way.

- (8c) The SARPs adopted by the ICAO Council in the field of civil aviation safety, air navigation and air traffic management can concern matters of Union exclusive competence and might be capable of decisively influencing the content of Union law. It is therefore efficient and appropriate, by means of a decision, to establish the criteria and procedure to be followed for establishing the position to be taken on the Union's behalf with respect to SARPs in those fields, without prejudice to the rights and obligations of Member States as ICAO Contracting States under the Chicago Convention. At ICAO level, civil aviation safety, air navigation and air traffic management SARPs are mainly contained in ICAO Annexes 1, 2, 3, 4, 6, 8, 10, 11, 14, 15, 18 and 19.**
- (8d) At Union level, the requirements contained in SARPs for civil aviation safety are mainly reflected and referred to in Regulation (EU) 2018/1139¹, Regulation (EC) No 2111/2005² of the European Parliament and of the Council and in the implementing and delegated acts adopted on the basis thereof in particular Commission Regulations (EU) No 1178/2011³, (EU) No 748/2012⁴, (EU) No 965/2012⁵, (EU) No 139/2014⁶, (EU) No**

¹ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1).

² Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15).

³ Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1).

⁴ Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

⁵ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

⁶ Commission Regulation (EU) No 139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 44, 14.2.2014, p. 1).

452/2014⁷, (EU) No 1321/2014⁸, (EU) 2015/640⁹, Commission Implementing Regulation (EU) 2019/947¹⁰, Commission Delegated Regulation (EU) 2019/945¹¹, and Commission Implementing Regulation (EU) 2021/664¹².

(8e) At Union level, the requirements contained in SARPs for air navigation and air traffic management are mainly reflected and referred to in Regulations (EC) No 549/2004¹³, (EC) No 550/2004¹⁴, (EC) 551/2004¹⁵ of the European Parliament and of the Council and in the implementing and delegated acts adopted on the basis thereof in particular Commission Implementing Regulation (EU) No 923/2012¹⁶, Commission Regulation

⁷ Commission Regulation (EU) No 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 133, 6.5.2014, p. 12).

⁸ Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1).

⁹ Commission Regulation (EU) 2015/640 of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012 (OJ L 106, 24.4.2015, p. 18).

¹⁰ Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft (OJ L 152, 11.6.2019, p. 45).

¹¹ Commission Delegated Regulation (EU) 2019/945 of 12 March 2019 on unmanned aircraft systems and on third-country operators of unmanned aircraft systems (OJ L 152, 11.6.2019, p. 1).

¹² Commission Implementing Regulation (EU) 2021/664 of 22 April 2021 on a regulatory framework for the U-space (OJ L 139, 23.4.2021, p. 161).

¹³ Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) (OJ L 96, 31.3.2004, p. 1).

¹⁴ Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (OJ L 96, 31.3.2004, p. 10).

¹⁵ Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) (OJ L 96, 31.3.2004, p. 20).

¹⁶ Commission Implementing Regulation (EU) No 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 (OJ L 281, 13.10.2012, p. 1).

(EU) No 1332/2011¹⁷, Commission Implementing Regulation (EU) 2018/1048¹⁸, and Commission Regulation (EU) 2015/340¹⁹.

(8f) This Decision should concern only the positions to be taken on Union's behalf within the ICAO in areas of Union exclusive competence. This Decision is without prejudice to the possibility for the Council to adopt, upon a Commission proposal, decisions based on Article 218(9) TFUE establishing the position to be taken on the Union's behalf within the ICAO in particular in areas falling outside the scope of this Decision, including where the shared competence of the Union has not yet been exercised.

(9) ~~In that regard,~~ The procedure established by Decision (EU) 2023/746²⁰ resulted in a more efficient process and offered more time being spent on substance. Therefore, the period of application of that Decision should be extended for another ICAO triennial cycle, namely until 31 December 2028. **The Commission should submit to the Council a written evaluation of the application of this Decision to serve as the basis for any potential extension or amendment to this Decision.**

~~(10) The experience from applying Decision (EU) 2023/746 has discovered some inconsistencies and gaps as regards approval of new Procedures for Air Navigation Services (PANS), in several cases directly stemming from amendments of certain Standards and Recommended Practices falling within the Decision scope; non-inclusion of notification of differences from Recommended Practices or narrowing the scope not to include Annex 13 – *Aircraft Accident and Investigation* – to the Chicago Convention that has been amended as a consequence of amendment to Annex 6 falling under the Decision. In order to provide an overarching and consistent approach to the Union decision making process ahead of ICAO Council deliberations or when notifying differences to ICAO, Decision (EU) 2023/746 should be amended.~~

~~(11) The procedure established by Decision (EU) 2023/746 should be extended to amendments to Annex 13 to the Chicago Convention – *Aircraft Accident and Investigation*, subject to certain safeguards. It is opportune to enlarge the scope of Decision (EU) 2023/746 to cover all~~

¹⁷ Commission Regulation (EU) No 1332/2011 of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance (OJ L 336, 20.12.2011, p. 20).

¹⁸ Commission Implementing Regulation (EU) 2018/1048 of 18 July 2018 laying down airspace usage requirements and operating procedures concerning performance-based navigation (OJ L 189, 26.7.2018, p. 3).

¹⁹ Commission Regulation (EU) 2015/340 of 20 February 2015 laying down technical requirements and administrative procedures relating to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, amending Commission Implementing Regulation (EU) No 923/2012 and repealing Commission Regulation (EU) No 805/2011 (OJ L 63, 6.3.2015, p.1).

²⁰ Council Decision (EU) 2023/746 of 28 March 2023 establishing the criteria and the procedure for establishing the position to be taken on the European Union's behalf within the International Civil Aviation Organization as regards the adoption of, or amendments to, international standards and recommended practices, and the notification of differences with respect to adopted international standards (OJ L 99, 12.4.2023, p. 7, ELI: <http://data.europa.eu/eli/dec/2023/746/oj>).

~~Chicago Convention Annexes in the field of aviation safety and air navigation. This, in particular, concerns the Chicago Convention's Annexes that are reflected in the Union civil aviation safety rules and not only in Regulation 2018/1139 of the European Parliament and of the Council²¹, but also in other aviation safety regulations such as Regulation 376/2014 of the European Parliament and of the Council²², Regulation 996/2010 of the European Parliament and of the Council²³ and Regulation 2111/2005.~~

- ~~(12) The procedure established by Decision (EU) 2023/746 should be extended to new Procedures for Air Navigation Services (PANS), which are likely to have a decisive influence on the content of the Union law due to their explicit references in Union legislation, in order to ensure a consistent approach towards rules addressing area of air navigation.~~
- ~~(13) The procedure established by Decision (EU) 2023/746 should also be extended to cases where the ICAO Council is called to approve new editions of Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Doc 9284) under Annex 18 to the Chicago Convention *The Safe Transport of Dangerous Goods by Air*. Those Technical Instructions are directly referred to in point CAT.GEN.MPA.200 "Transport of dangerous goods" of Annex IV to Commission Regulation (EU) No 965/2012²⁴. Because of that direct reference, any change to those Technical Instructions is likely to have a decisive influence on the content of the Union legislation.~~
- ~~(14) ICAO considers notification of differences pertaining to recommended practices important because that knowledge of differences from recommended practices can also be important for the safety, regularity and efficiency of air navigation. That consideration is further strengthened and supported by the ICAO Assembly Resolution A39-22 in the area of aviation~~

²¹ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1139/oj>).

²² Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18, ELI: <http://data.europa.eu/eli/reg/2014/376/oj>).

²³ Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC, (OJ L 295, 12.11.2010, p. 35, ELI: <http://data.europa.eu/eli/reg/2010/996/oj>).

²⁴ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/965/oj>).

safety and air navigation, detailed in the ICAO Manual on notification of differences (ICAO Doc 10055), by which all ICAO Contracting States declared to act accordingly.

- ~~(15) Within the framework of the ICAO Universal Safety Oversight Audit Programme ('USOAP') audit of the EASA performed in February and March 2025, a lack of notification of differences pertaining to recommended practices in the area of aviation safety and air navigation was found as non-compliance with the USOAP requirements.~~
- ~~(16) Therefore, an express inclusion of Union position as regards notification of differences pertaining to recommended practices in the Council Recommendation should allow for a more streamlined, consistent and efficient Union adoption process and support Member States in their compliance with ICAO Assembly Resolution A39-22 in the area of aviation safety and air navigation.~~
- ~~(17) More flexibility with regards to amendments to Annexes to the Chicago Convention, new PANS and new editions of Technical Instructions falling within the Union competence that are likely to have a decisive influence on the content of the Union law, and thus requiring formulation of a Union position, should be sought jointly, in particular, when agenda of an ICAO Council session could be amended shortly before it takes place.~~
- ~~(18) The objective of this proposal is to further improve Union processes for decision-making by Member States at the ICAO. The proposed changes aim to reach those objectives.~~

(10) The implementation of this Decision should not entail a breach of Member States' obligations under Union law or of their international obligations under the Chicago Convention.

- (19) For the purposes of the implementation of this Decision, Member States and the Commission, in line with the Union's observer status, should act in close cooperation in accordance with their duty of sincere cooperation.
- (20) Decision (EU) 2023/746 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (EU) 2023/746 is amended as follows:

(1) Paragraph 1 of Article 7 is replaced by the following:

'1. This Decision shall apply until 31 December 2028.'

(2) In the Annex, under Objectives, the point 4 is replaced by the following:

4. To promote the development and deployment of efficient, performant and interoperable air navigation services, in accordance with Regulation (EU) 2024/2803, Regulation (EC) No 549/2004 and Regulation (EC) No 550/2004 and taking account of the Global Air Navigation Plan and aviation system block upgrades (ASBUs).

(3) In the Annex, under Guidelines, the point 2(c) is replaced by the following:

(c) Support the development and implementation of rules, policies and actions in the field of Air Traffic Management and Air Navigation Services (ATM/ANS) in particular in line with Resolution A41-6, Resolution A41-7 and Resolution A41-8 and amendments thereof as adopted at the 42nd session of the Assembly.

— the title is replaced by the following:

~~‘Council Decision (EU) 2023/746 of 28 March 2023 establishing the criteria and the procedure for establishing the position to be taken on behalf of the European Union in the International Civil Aviation Organization as regards the adoption of international standards and recommended practices, or amendments thereto, the approval of new technical instructions for the safe transport of dangerous goods by air or procedures for air navigation services and the notification of differences with respect to adopted international standards and recommended practices’;~~

(2) — Article 1 is replaced by the following:

‘Article 1

~~The position to be taken on behalf of the Union in the Council of the International Civil Aviation Organization (‘ICAO Council’), when that body is called upon to adopt new international standards and recommended practices (‘SARPs’) or amendments to SARPs in the areas of civil aviation safety, air navigation and traffic management relating to Annexes 1, 2, 3, 4, 6, 8, 10, 11, 13, 14, 15, 18 and 19 to the Convention on International Civil Aviation (the ‘Chicago Convention’), or to approve new editions of Technical Instructions for the Safe Transport of Dangerous Goods by Air (‘Technical Instructions’) or Procedures for Air Navigation Services (‘PANS’), insofar as such SARPs, Technical Instructions or PANS and have legal effects within the meaning of Article 218(9) TFEU, shall be established in accordance with the criteria and procedure set out in Article 2 of this Decision.’;~~

(3) — In Article 2, the first sentence in paragraph 1 and point (a) are replaced by the following:

~~‘1. Where the ICAO Council is to adopt new SARPs or amendments to SARPs or approve new PANS or new editions to Technical Instructions as referred to in Article 1, the Commission shall:~~

(a) — ~~In due time and at least one month before the date of the ICAO Council meeting where new SARPs or amendments to SARPs are to be adopted or where new PANS or new editions to Technical instructions are to be approved, submit to the Council, for discussion and approval, a document setting out the particulars of the draft position to be taken on the Union’s behalf; in exceptional circumstances, this timeline may be shortened in the case of the urgent adoption of new SARPs or of an amendment, or of the temporary suspension of entry into force of SARPs or of an amendment or in the case of the urgent approval of new PANS or new edition of Technical Instructions, where the text of the relevant draft SARPs or amendments or draft PANS or draft of new edition of Technical Instructions is available less than a month before the date of the ICAO Council meeting where those SARPs or amendments to be adopted or PANS or Technical Instructions are to be approved, the Commission shall endeavour to~~

~~submit the document to the Council without undue delay and in any event at the latest five days after having received the draft new SARPs or draft amendments or draft PANS or draft Technical Instructions from the International Civil Aviation Organization ('ICAO');²;~~

~~(4) Article 3 is replaced by the following:~~

~~*Article 3*~~

~~The position to be taken on the Union's behalf in the ICAO as regards the notification of differences with respect to new international standards and recommended practices contained in Annexes 1, 2, 3, 4, 6, 8, 10, 11, 13, 14, 15, 18 and 19 to the Chicago Convention, or amendments thereof, pursuant to Article 38 of the Chicago Convention and in light of ICAO Assembly resolution A39-22, shall be established in accordance with the criteria and procedure set out in Articles 4 and 5 of this Decision.²;~~

~~(5) Article 4 is replaced by the following:~~

~~*Article 4*~~

~~Where Union law differs from the international standards or from recommended practices referred to in Article 3 of this decision and notification to the ICAO of those differences is therefore required in accordance with Article 38 of the Chicago Convention and in light of ICAO Assembly resolution A39-22, the Commission shall, in due time and at least two months before any deadline set by the ICAO for the notification of differences, submit to the Council, for discussion and approval, a document, based in particular on the information provided by the EASA in accordance with Article 90(4) of Regulation (EU) 2018/1139, where applicable, setting out details of the differences to be notified to the ICAO, and where appropriate, indicating what flexibility is available to Member States as regards the form of the notification.~~

~~The position to be taken pursuant to this Article shall be expressed by all Member States acting jointly in the interest of the Union²;~~

~~(6) In Article 7, paragraph 1 is replaced by following:~~

~~'1. This Decision shall apply until 31 December 2028.'²;~~

~~(7) The Annex is replaced by the text in the Annex to this Decision.~~

Article 2

The position referred to in Articles 1 and 3 shall be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly in the interest of the Union.

Article 3

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*. **This Decision shall enter into force on the date of its adoption.**

Done at Brussels,

*For the Council
The President*
